

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1094 – SB 1245

March 11, 2013

SUMMARY OF ORIGINAL BILL: Authorizes a special alternate payment plan for any nursing home that is the sole licensed nursing home located in an economically distressed county as determined by the Commissioner of Economic and Community Development and has failed to pay the annual nursing home tax and any applicable penalty for more than two years. A nursing home in compliance with the special alternate payment plan is not liable for any amount of penalty and interest calculated under Tenn. Code Ann. § 68-11-216(c)(7)(A) that is in excess of the amount calculated under the special alternate payment plan. The nursing home will only be approved for the alternate payment plan if the nursing home is attempting to comply in good faith with an alternate payment plan approved by the Commissioner of Health at the time of application for the special alternate payment plan.

The special alternate payment plan will recalculate the penalty imposed from the beginning of the delinquency as follows:

- When any person fails to timely make any return or report or fails to timely pay any taxes shown to be due on the return or report, a penalty in the amount of five percent of the unpaid tax amount will be imposed against that person for each 30 days or fraction of 30 days that the tax remains unpaid subsequent to the delinquency date, up to a maximum of 25 percent of the unpaid amount. If a return or report is delinquent, the minimum penalty will be \$15, regardless of the amount of tax due or whether there is any tax due.
- A return, report, or payment will be considered untimely if not made on or before the delinquency date under the applicable statutes, including any extensions of time granted. In the case of an untimely return, report, or payment, the penalty will be calculated as of the original delinquency date, without reference to any extensions granted.

The bill will take effect upon becoming a law and apply retroactively to July 1, 2009.

FISCAL IMPACT OF ORIGINAL BILL:

Forgone State Revenue - \$971,700

SUMMARY OF AMENDMENT (004225): Deletes all language after the enacting clause. Refers to the annual nursing home assessment fee instead of the annual nursing home privilege tax. Requires, instead of authorizes, the Commissioner of Health to initiate proceedings before the Board for Licensing Health Care Facilities if a nursing home is more than 90 days, instead of 60 days, delinquent in paying an installment of the annual nursing home

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assessment fee. In cases where a licensed nursing home is delinquent on assessment fees beginning July 1, 2009, and ending June 30, 2012, and is currently participating in a payment plan, the Commissioner is authorized to reduce the amount of penalties and interest due for that time period to 25 percent of the total assessment fee outstanding balance as of June 30, 2012. The assessment fee outstanding balance is calculated as the total assessment fees owed not including any penalties and interest, less any payments made by the facility, beginning July 1, 2009 and ending July 30, 2012.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:


Forgone State Revenue - \$1,045,400

Assumptions for the bill as amended:

- Under current law, if any part of the tax is not paid on or before the due date, a penalty of five percent of the amount due accrues at once and is added to the tax. Thereafter, on the first day of each month the tax and prior accrued penalty remain unpaid an additional penalty of five percent of the then unpaid balance will accrue and be added to the tax and any prior accrued penalty. The taxes not paid will bear interest at the maximum lawful rate from the due date to the date paid. The Commissioner of Health is authorized to approve an alternate payment plan for good cause if full payment of the tax plus penalty and interest is made.
- According to the Department of Health, if the bill as amended is enacted the state will forgo state revenue of \$1,045,400 (\$933,800 penalty revenue and \$111,600 interest revenue) based on the cumulative amount of unpaid penalties and interest since FY09-10.
- According to the Department of Health, any rulemaking required by the bill can be accomplished without additional meetings and can be accommodated within the existing resources of the Department without an increased appropriation or reduced reversion.
- According to the Bureau of TennCare, the fiscal impact of the bill on the Bureau will be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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